

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RALPH RODRIGUEZ,

22-CV-10056-PMH

Plaintiff,

NOTICE OF MOTION

-against-

EDWARD BURNETT, et al.,

Defendants.

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PLEASE TAKE NOTICE that defendants Edward Burnett, Sally Reams, Mahnaz Sullivan-Davachi (“Defendant Sullivan”), Michael Blot (A/K/A Sgt. Block), Sangeethe L. Mukkat, Vincente Santiago, Carlton Garrett, Jean Marc Oge, Richard Flanagan, Jason Crofoot, Christopher Ciaccio, Jan Okusko, Aleshia Rose, Alexis Cherry, Robert Mitchell, Stephen Urbanski, Akinola Akinyombo, Mohammad Bhuiyan, Oujas Gifty, and Jonathan Franco (“Defendants”), by their attorney, LETITIA JAMES, Attorney General of the State of New York, upon the annexed Memorandum of Law, will move this Court before the Honorable Philip M. Halpern, United States District Court Judge for the Southern District of New York, at the United States Courthouse located at 300 Quarropas Street, White Plains, New York, 10601, at a date and time to be determined by the Court, for an order pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure dismissing the Complaint on the grounds that: (i) Plaintiff has failed to allege the personal involvement of Defendants; (ii) Plaintiff’s claims are duplicative of prior litigation; (iii) Plaintiff fails to plead facts that sufficiently allege deliberate indifference to a serious medical condition; (iv) Plaintiff’s retaliation claim fails to state facts which could support the claim; (v) Plaintiff’s supervisor liability claim fails to state facts which could support the claim; (vi) Defendants are entitled to qualified immunity; (vii) Plaintiff’s search and seizure cause of action

fails as a matter of law; (viii) Plaintiff's Ninth Amendment claim fails as a matter of law; (ix) Plaintiff's equal protection claim fails to allege unequal treatment; (x) Plaintiff fails to allege a substantial burden on his religious practice; and (xi) the Eleventh Amendment bars official capacity claims.

Pursuant to the Court's July 27, 2023 Order, opposition papers, if any, are due by October 12, 2023; and reply papers, if any, are due by October 26, 2023.

Dated: New York, New York
September 12, 2023

Respectfully submitted,

LETITIA JAMES
Attorney General of the
State of New York
Attorneys for Defendants
By:

/s/ Andrew Blancato
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